

# S&S Tax Snippets

4<sup>th</sup> Ed.



# Regulatory Updates

## Customs Regulations

### Introduction of On-Arrival Movement for Storage and Clearance at Authorized Importer Premises Regulations, 2025

The CBIC introduced the Customs (On-Arrival Movement for Storage and Clearance at Authorized Importer Premises) Regulations, 2025, vide Notification No. 11/2025-Customs (N.T.), dated 17.02.2025. Issued under Section 157 read with Section 143AA of the Customs Act, 1962, these regulations facilitate trade by allowing authorized importers to move imported goods directly to their premises for storage and clearance. The rules apply to importers AEO status Tier II or III, operating licensed bonded warehouses under Sections 58, 58A, or 65, and importing goods classified under Headings 8517-8548. Goods must not have orders under Sections 47 for clearance for home consumption or order under Section 60 for warehousing.

Importers must apply to the Commissioner of Customs for authorization, with premises verified within 7 days. Upon declaring intent in BoE, automated permission for storage is granted, except for suspicious goods, pending no-objections, or intelligence-based holds. Goods can then be moved under bond to authorized premises, examined, and cleared for home consumption or warehousing. Authorized importers must provide continuity bonds, ensure safe storage, clear goods within 15 days (extendable), and maintain records. Non-compliance may lead to suspension, revocation, or penalties. CBIC may exempt certain goods based on nature, transport, or storage. These regulations streamline customs processes, reduce delays, and enhance trade facilitation for eligible importers.

### Introduction of 'Jan-Sunwai' for Grievance Redressal in SEZs

The Department of Commerce, Ministry of Commerce & Industry, has issued Instruction No. 118 dated 19th February 2025, introducing an institutional mechanism for the redressal of

grievances of stakeholders in SEZs which shall be conducted through VC for at least two hours every week on working days.

The schedule for these VC sessions must be notified to the public, including developers and unit holders, and prominently displayed on the respective SEZ websites. A copy of the public notice and the schedule must be shared with the Department by the Development Commissioner. A monthly compliance report detailing the number of grievances heard and resolutions provided should be submitted by the 5th of the following month. This initiative aims to streamline the grievance redressal process and ensuring timely resolution of issues.

### Single Unified Multi-Purpose Electronic Bond in Customs-Ekal Anubandh

The CBIC has introduced the "Ekal Anubandh" project through Circular No. 4/2025-Customs, dated 17th February 2025, to enhance efficiency and reduce administrative burdens on trade businesses. The project introduces a Single All-India Multipurpose Electronic Bond (SEB), replacing transaction-wise bonds submitted across different ports. This digital solution allows importers/exporters to submit a unified bond electronically via ICEGATE, enabling end-to-end automation, electronic payment of stamp duty, and digital execution of bonds without notary requirements. Bank guarantees can also be linked electronically, ensuring real-time tracking and transparency. The initiative aims to streamline processes, reduce costs, and eliminate paperwork, making trade procedures faster and more environmentally friendly. Detailed advisories will be issued for phased implementation, with user feedback incorporated. This project aligns with CBIC's efforts to simplify trade processes and improve transparency.

## GST Circular

### Clarification regarding classification and GST rate on pepper of genus Piper

It is clarified that pepper of Piper, whether green (fresh), white or black is covered under HS 0904 and attracts 5% GST vide sl. no. 38 of Schedule I of Notification No. 1/2017-CT (rate) dated 28.07.2017. Further, it is also clarified that an agriculturist supplying dried pepper is not liable to be registered under Section 23(1) of the CGST Act is exempt from GST.

### Clarification on GST rate on ready to eat popcorn

It is clarified that the ready to eat popcorn which is mixed with salt and spices are classifiable under HS 2106 90 99 and that the same attracts 5% GST if not pre-packed and labelled and attracts 12% GST if sold as packed and labelled. Additionally, it is also clarified that when a popcorn is mixed with sugar, the character of the popcorn changes to sugar confectionary (e.g. caramel popcorn) and the same is classifiable under HS 1704 90 90 attracting 18% GST as per sl.no. 12 of Schedule I of Notification No. 1/2017.

Further, in view of the existence of the genuine doubts regarding the applicable GST rate on ready to eat popcorn mixed with salt and spices, the issue for the past period up to 14.02.2025 is regularized on 'as is where is' basis.

### Clarification regarding fly ash based autoclaved aerated concrete blocks

It has been clarified that fly ash bricks, fly ash aggregates and fly ash blocks under HS 6815 attract 12% GST and the articles of concrete or of artificial stone, whether or not reinforced classifiable under HS 6810 attract 18% GST. Further, it is also clarified that that autoclaved aerated concrete (ACC) blocks containing more than 50% fly ash will fall under HS 6815 and attract 12% GST.

### Clarification regarding raisins supplied by agriculturist

It is clarified that an agriculturist supplying raisins is not liable to be registered under Section 23(1) of the CGST Act is exempt from GST.

### Clarification on effective date of amendment entry regarding ground clearance for Motor Vehicles

As per sl.no. 52B in the Notification No. 01/2017-Compensation Cess (rate) dated 28.06.2017, motor vehicles of engine capacity exceeding 1500cc, popularly known as SUVs, including utility vehicles attracted 22% Compensation Cess. In light of the 50th GST Council meeting, vide Notification 03/2023-Compensation Cess (Rate) dated 26.07.2023, the entry 52B was substituted to provide that the cess will be applicable to all motor vehicles known as utility vehicles by whatever name called, with engine capacity exceeding 1500cc, length exceeding 4000mm and ground clearance of 170mm and above. Additionally, a new explanation was added that ground clearance means ground clearance in unladen condition. The said amendment is now clarified to be applicable on or after 26.07.2023.

*Circular No. 247/04/2025-GST dated 14.02.2025*

## S&S Case Roundup

Cases handled by us

### Challenge to Notification 05/2025-Cus dated 01.02.2025

The Hon'ble Delhi High Court admitted a batch of Writ Petitions challenging Notification No. 05/2025 dt. 01.02.2025 to the extent it is *ultra vires* to the Customs Tariff Act, 1975 read with Customs Act, 1962. The Notification was challenged on the ground that it partially exempts all goods other than Interactive Flat Panel Display ("IFPD") under CTH 8528 59 00 without amending the tariff classification which presently reads as "Other" monitors and does not cover IFPD. The Memorandum explaining the Finance Bill, 2025 states that the tariff rate for IFPDs under CTH 8528 59 00 has been increased from 10% to 20% whereas the Finance Bill, 2025 merely increases the tariff rate without amending the tariff classification.

*WP.(C) 2140/2025, Delhi High Court*

### Orders set aside for being in violation of the principles of natural justice as no hearings were given

The Hon'ble Chhattisgarh High Court set-aside Orders-in-Appeal pertaining to five different assessment years on the ground of violation of the principles of natural justice as the Petitioner was not granted an opportunity of hearing prior to passing of the Orders. The Court noted that the Commissioner (Appeals) had taken over 6 years to pass the Orders which was not permissible under the statutory framework. The matter has been remanded to the appellate authority for fresh consideration after granting an opportunity of hearing to the Petitioner.

*Writ Petition Tax No. 178-182/2024, Chhattisgarh High Court*

### Recovery proceedings cannot be initiated when rectification application pending

The Hon'ble Telangana High Court held that the bank attachment and recovery proceedings initiated by the Department is not sustainable during the pendency of the rectification application filed by the Petitioner to rectify errors apparent on the face of the Order-in-Original and directed the adjudicating officer to adjudicate the application.

*Himalaya Wellness Company vs. JCCT & Anr; WP No. 3829/2025, Telangana High Court*

### High Court admits the Writ against refund rejection order contending services qualify to be intermediary

The Hon'ble Delhi High Court granted stay on an Order rejecting refund on the ground that the assessee acts as an intermediary. The Court observed that CBIC circular clarifies that an intermediary must be one who is interposed between two parties and the same has been examined by the Court in *CIT v. Singtel Global India Ltd.* Further, the Court agreed to consider the question whether taxability could be examined at the stage of evaluating an application for refund.

*WP (C) No. 2198/2025, Delhi High Court*



### Stay granted against the Order issued covering multiple assessment years

The Hon'ble High Court of Karnataka granted stay on the Order-in-Appeal passed against the assessee covering multiple assessment years. The said stay was granted in the background of multiple judgments of various High Courts holding that a show cause notice or order issued clubbing more than one financial year is not sustainable since the limitation for each assessment year is linked with the returns filed for the relevant period in terms of Section 73 or 74 of the CGST Act.

*WP No. 4866/2025, Karnataka High Court*

## Courtroom Updates

### Validity of Notifications issued under Section 168A of the CGST Act, 2017

The Supreme Court of India issued notice on the SLP and prayer for interim relief, returnable on 07.03.2025, while considering the challenge to the validity of Notification Nos. 9 and 56 of 2023, issued under Section 168(A) of the CGST Act against the order passed by Hon'ble Telangana High Court. The Court observed that the issue pertains to whether the time limit for issuing SCNs and passing orders under Section 73 of the CGST Act for the FY 2019-2020 could have been extended through these Notifications. The Court also noted that there were multiple issues arising in the matter, including a difference of opinion among various High Courts across the country.

*HCC-SEW-MEIL-AAG JV v. Asst. Commissioner of State Tax, SLP(C) No. 4240/2025, Supreme Court*

**ITC being a vested right, cannot be taken away by retrospective application of amendment to Rules, in the absence of amendment to the parent provision**

The amendment made to Rule 21(8) of the Punjab VAT Rules w.e.f. 01.02.2014 was under consideration which provided that where goods as input or output are lying in stock of a taxable person and where rate of tax on such goods is reduced from a particular date, then from that date, ITC shall be admissible to the taxable person on the sale of goods lying in stock or on using the goods as input for manufacturing taxable goods, at the reduced rate. Subsequently, amendment was made to the Punjab VAT Act w.e.f. 01.04.2014 to provide that ITC would be available only if the goods are sold or used in manufacture etc. Further, the rate of tax on iron and steel goods stood reduced from 4.5% to 2.5% and it was clarified that ITC on stock held as on 31.01.2014 would be restricted to the new rate of tax.

The Hon'ble Apex Court agreed with the decision of the Hon'ble High Court which relied on the decision in *Eicher Motors Limited v. UOI, (1999) 2 SCC 361*, and held that in the absence of any amendment to the parent provision, the amendment to the Rules to confine availment of ITC at a reduced rate of tax on stock in trade is not justified and the same cannot be enforced before 01.04.2014 to take away a vested right already determined without statutory sanction.

***State of Punjab v. Trishala Alloys Pvt. Ltd., CA No. 2212/2024, Supreme Court***

**IGST credit can be availed under CGST and SGST**

An Order under Section 73 of the CGST Act was issued against the Petitioner for wrongly availing ITC under CGST and SGST instead of IGST. A rectification application filed by the Petitioner was also dismissed.

The petitioner relied on the decision in *Rejimon Padickapparambil Alex v. UOI, WA No. 54 of 2024*

where the Court had observed that there can be no wrong availing of ITC when credit available in IGST was availed under CGST and SGST.

The court ruled that the electronic credit ledger functions as a unified pool of funds and that the legal position was not considered in the impugned order. Consequently, the order was set aside, and the respondent was directed to reconsider the matter.

***Maruthengal Moideen v. State Tax Officer, WP(C) No. 20837/2024, Kerala High Court***

**Distinguishing 'non-service' and 'lack of knowledge of service'**

Petitioner challenged the validity of an Order and SCN as the Petitioner was not aware of the same till recovery proceedings were initiated. The SCN was uploaded in 'Additional Notices and Orders' tab of the Portal instead of the 'Notices and Orders' tab.

The court held that while mere lack of knowledge does not always violate natural justice, improper placement of the notice and absence of clear navigation instructions made the petitioner's lack of knowledge attributable to the sender. As proper service was not done, the order was set aside, and the petitioner was allowed to respond to the SCNs.

***Ramanattu Motor Corp. v. State of Kerala, WP(C) No. 23872/2024, Kerala High Court***

**No bank guarantee required for imported goods if no SCN has been issued**

The Court held that when no SCN is issued, an importer cannot be asked to furnish a bank guarantee with respect to the entire amount of differential duty, fines and anticipated penalties is unduly harsh and burdensome on the assessee. The Assessee was directed to furnish a Provisional Duty bond and bank guarantee covering 50% of the differential duty, if assessed.

***BMS Enterprises v. UOI, WP No. 2258/2025, Bombay High Court***

### **Analysis of “taken into use” for duty drawbacks**

The Petitioner, an exporter of mobile phones, purchases locked mobile phones from OEMs and unlocked them for enabling their usage in the destination countries. The Petitioner’s claim for duty drawbacks was rejected on the ground that the activity of unlocking phones constitutes “taken into use” under proviso to Rule 3(1) of Duty Drawback Rules.

The High Court observed that unlocking the phone only makes them “ready to use” in the destination markets and not “taken into use” under Rule 3(1). The phrase must be understood basis the nature and use of the item. The unlocking does not depreciate the value of phones or hinder their usage. Hence the Petitioners cannot be denied duty drawbacks under Section 75 of the Customs Act.

*AIMS Retail Services Pvt. Ltd. v. UOI, WP(C) No. 9461/2023 Delhi High Court*

### **Refund of SHEC and Education Cess allowed**

The Appellant had filed a refund application for refund of cesses as it believed the same could not be transitioned into GST. This application was rejected through orders in original and appeal. The Tribunal held that the appellant could claim refund of the excess CENVAT credit of SHEC and Education Cess in terms of Sections 142(3) and 142(9)(b) of the CGST Act. Section 142(3) provides for refund of credit, duty, interest, or any other amount paid under existing law.

The Tribunal observed that the transitional provisions in Section 142 permit cash refund of CENVAT credit and that credit is a vested right of the Appellant that cannot be taken away by narrow interpretation of the Cenvat Credit Rules and Section 11B of the Central Excise Act. The Tribunal relied on *Dy. General Manager, BHEL v. Commr., CGST*, to hold that refund of credit on cess cannot be rejected.

*Star India Pvt. Ltd. v. Commr. of CGST and CE, ST No. 85447/2021, CESTAT Mumbai*

### **Salary reimbursement not consideration for supply of manpower services**

The Appellant, a lead partner of a JV, provided technical and non-technical employees for executing the project and the cost for the same was reimbursed on actuals by JV partners. The Tribunal observed that the reimbursement cannot be construed to be consideration. The personnel of the Appellant engaged in the project were its employees and the Appellant provided salaries and other benefits to them. Only the cost of salary was reimbursed by JV partners on actual basis, and this cannot be consideration under Section 67 of the Finance Act, 1994.

*Assam Gas Co. Ltd. v. CCE, ST No. 75603/2015, CESTAT Kolkata*

### **Benefit of the exemption notification cannot be denied on the ground that the same was not claimed in the BOE**

The Hon’ble Tribunal while setting aside the Order denying the benefit of the exemption notification held that the benefit of the unconditional exemption Notification cannot be denied on the ground that the same was not claimed in the Bill of Entry. It was observed that neither Section 25 of the Customs Act nor the exemption notification requires the importer to claim the exemption in the Bill of Entry as a precondition to enjoy its benefit and further that an unconditional exemption notification falls under the ‘Except as otherwise provided’ clause of the charging Section and therefore the charge of duty gets reduced as per the Notification, irrespective of whether it was claimed in the BOE or not.

*Battre Electric Mobility Pvt Ltd v. Principal Commr. of Customs, Customs Appeal No. 51790/2022, CESTAT Delhi*

# THANK YOU

For further queries/information please get in touch  
with us



**Prashanth S Shivadass**  
**Partner**

Ph No: 9810507391

Email: [prashanth.shivadass@sdlaw.co.in](mailto:prashanth.shivadass@sdlaw.co.in)



**Rishab. J**  
**Associate Partner**

Ph No: 9741224346

Email: [rishab.j@sdlaw.co.in](mailto:rishab.j@sdlaw.co.in)



**Shradha Rajgiri**  
**Senior Associate**

Ph No: 9901901512

Email: [shradha.rajgiri@sdlaw.co.in](mailto:shradha.rajgiri@sdlaw.co.in)



**SHIVADASS & SHIVADASS<sup>®</sup>**  
— LAW CHAMBERS —

Level 3,  
No. 4/2, Millers Road,  
Bangalore - 560052